



United States  
Department of  
Agriculture

Forest  
Service

Southern Region

Daniel Boone  
National Forest

Kentucky

May 2013



# **Finding of No Significant Impact (FONSI) and Decision Notice**

## **Bledsoe Coal Lease KYES-53865**

Redbird Ranger District, Daniel Boone National Forest  
Leslie County, Kentucky

**For More Information Contact:**

Patti Davis  
1700 Bypass Road  
Winchester, KY 40391  
(859)745-3100

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**Where is this  
project in the  
Forest Service  
NEPA process?**

NEPA (short for the National Environmental Policy Act of 1969) is the Forest Service decision-making process that provides opportunities for interested parties to give their ideas and opinions about resource management. This input is important in helping the Forest Service to identify resource needs, which will shape the alternatives evaluated and lead to the formation of a decision. The following explains the steps of the NEPA process, and where the attached proposal is in that process.

☒ **Step One–Need for a Project.** The Forest Service or some other entity may identify the need for a project. YOU may bring the need for a project to the attention of the Forest Service.

☒ **Step Two–Develop Project Proposal.** The Forest Service or a project proponent develops detailed, site-specific proposal. YOU may be proponent who develops proposal or YOU can share input and ideas.

☒ **Step Three–Scoping (Public Input).** The Forest Service solicits public input on the site-specific proposal to define the scope of environmental analysis and range of alternatives to be considered. YOU provide site-specific input on issues, alternatives, and mitigation measures.

☒ **Step Four–Develop Reasonable Range of Alternatives.** If scoping determines need for environmental assessment or environmental impact statement, the Forest Service develops alternatives. YOU suggest alternatives to the proposed action during the scoping process.

☒ **Step Five–Information for Formal Public Comment Period.** Forest Service performs analysis of environmental effects, identifies preferred alternative, and solicits formal public comment. YOU provide timely and substantive comments on the analysis during the comment period.



☒ **Step Six–Environmental Analysis and Decision.** Forest Service finalizes the environmental assessment and makes decision to implement one of the alternatives. YOU can review the decision; you can appeal if you disagree, and you have “standing.”

☐ **Step Seven–Appeal.** Forest Service allows public 45 days following legal notice of decision to appeal. YOU may file formal Notice of Appeal.

☐ **Step Eight–Implementation.** Forest Service implements the project. YOU may contribute labor, equipment, or funding to implement the project.

☐ **Step Nine–Monitor and Evaluate.** Forest Service monitors and evaluates project results. YOU provide feedback on the project to the Forest Service.



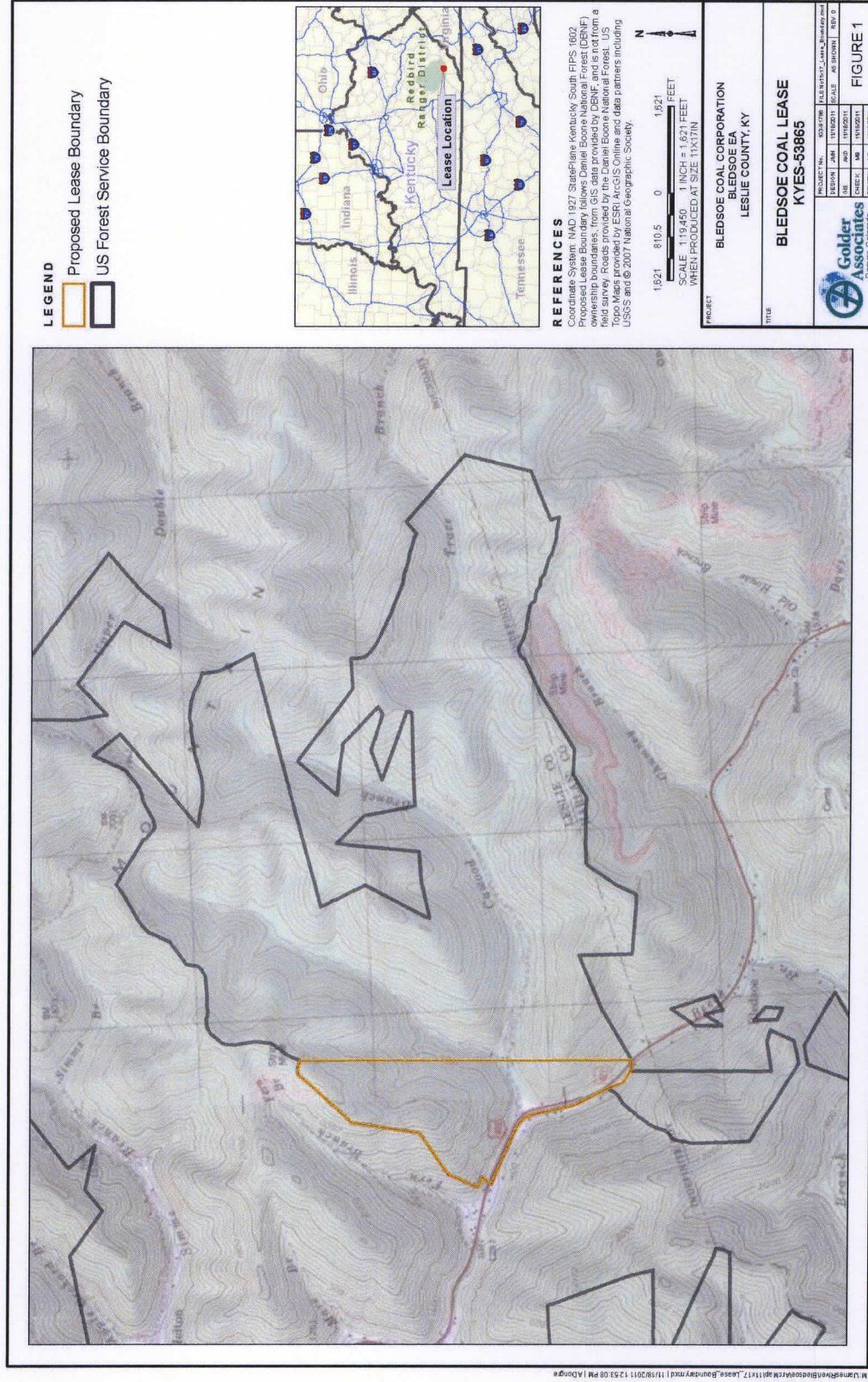


Figure 1 Bledsoe Coal Lease Vicinity Map



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## Decision and Rationale (36 CFR 220.7(c) (2))

### Decision

Based upon my review of the analysis of the proposed activities, Bledsoe Coal Lease KYES-53865 Environmental Assessment (EA), I have decided to consent to the Bureau of Land Management's (BLM) leasing of coal deposits underlying National Forest System land tract 3094Bd in Leslie County, Kentucky (see Figure 1). I have chosen the Proposed Action, Alternative 1, as the Selected Alternative. I have decided to implement the proposed action as described on pages 8 to 14 of the EA.

By consenting to the BLM's leasing of federal coal deposits, I am also consenting to underground mining consistent with the lease stipulations imposed for the protection of non-mineral resources. I will provide the BLM with a copy of this Decision Notice and the consent letter, in which the additional stipulations will be described. The proposed development scenario (PDS) associated with Alternative 1 will involve underground mining. Main haulage drift (main) and tributary or submain haulage drift (submain) entries will be driven beneath the tract, and the coal will be extracted through room-and-pillar techniques, with removal of pillars on retreat. No new facilities will be constructed as part of the PDS, and there will be no surface occupancy on National Forest System lands. Existing and permitted surface facilities located on private lands will be used to support underground mining activities for the PDS. The extraction process will take place in accordance with mining plans approved by the BLM, the U.S. Department of Labor Mine Safety and Health Administration, and Kentucky Environmental Cabinet, Division of Mine and Reclamation and Enforcement.

Project-specific design criteria, such as applicable Forest Plan Standards, and Kentucky best management practices, are included as employed to protect resources during implementation of proposed activities. The PDS includes environmental protection measures that mitigate potential impacts of the PDS and facilitate compliance with the Design Criteria in Table 2.2-1 of the EA. Table 2.2-2 and pages 11 to 14 of the EA provide a summary of the mitigation measures.

The following monitoring will also be implemented for this project as described in the EA. Six groundwater monitoring wells are being monitored in accordance with Kentucky Division of Mine Permits (KDMP) permitting requirements and will be monitored during mining (EA page 51). Thirteen surface water points will be monitored under the PDS. This monitoring would continue to be performed during mining in accordance with KDMP operating permit requirements (EA page 60).

### Rationale for Choosing the Proposed Action

I believe that the proposed action best meets the needs identified for this project (EA pages 1 to 3).

The federal government maintains a policy of encouraging private industry to explore and develop federal minerals to help satisfy local and national needs. The Mineral Leasing Act of 1920 as amended authorizes the competitive coal leasing process. The Mining and Minerals Policy Act of 1970 defines the federal government's policy for minerals resource management as fostering and encouraging the development of economically sound and stable industries, and the orderly and economic development of domestic resources to help assure satisfaction of industrial, security and environmental needs. Based on the Mining and Minerals Policy Act of 1970, the Forest Service developed its Minerals Program Policy to address its ecosystem management responsibility with regard to exploration, development and production of mineral and energy resources and reclamation of those activities. The Forest Service also coordinates and cooperates with other federal and state agencies having authority and expertise in mineral-related activities.



I have considered input from the public, Forest Service resource specialists, other state and federal agencies with oversight of natural resource, minerals, and ecosystem management. The public was afforded two opportunities to comment on the proposal; these opportunities are discussed in greater detail in the Public Involvement section on page 3 of this document. The comments we received helped to drive the analysis of this project, and indicated a strong concern for both water quality and air quality in regards to coal mining. These comments were taken into consideration; documentation of that consideration is located in the project record<sup>1</sup>.

I have considered the effect of the project on climate change, as well as the effect of climate change on the project. My deliberation regarding climate change was based on the discussion of air quality found on pages 72 to 79 of the environmental assessment, the consideration of comments received regarding emissions from post-mining processing of coal<sup>1</sup>, and consultation with agency experts. The Forest Service document "Climate Change Consideration in Project Level NEPA Analysis," dated January 13, 2009 (page 6) states:

"As [greenhouse gas] emissions are integrated across the global atmosphere, it is not possible to determine the cumulative impact on global climate from emissions associated with any number of particular projects. Nor is it expected that such a disclosure would provide a practical or meaningful effects analysis for project decisions."

Greenhouse gases will be emitted from vehicles used to access the project area and machinery used to conduct the underground mining. It is not feasible to quantify the effects of this action on climate change and therefore determining significant effects of the actions cannot be made at any scale. Implementing Alternative 1 is also unlikely to be impacted by climate change.

## *Alternatives Considered*

### **Alternative 1 – Proposed Action**

The proposed action is for the Forest Service to consent to lease and the BLM to offer for lease approximately 174.36 acres of federal coal from Tract 3094bd. Underground mining on federal land is proposed, with no new surface disturbance. No new facilities would be constructed. Existing and permitted surface facilities would be used to support underground mining activities. There would be no surface occupancy on National Forest System lands. This alternative is described in more detail on pages 8 to 14 of the EA.

### **Alternative 2 – No Action**

The No Action Alternative is to not lease the federal coal at this time. Under the No Action Alternative, the federal coal reserves would remain in place and the current land uses would continue. Retreat mining activities performed under adjoining private and federal lands would render the federal coal reserves difficult to access through the surrounding mined-out and collapsed areas, and expensive to mine. Future mining of the federal coal would be infeasible and the federal resource would be foregone (made inaccessible to future mining, or sterilized).

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<sup>1</sup> USDI Bureau of Land Management and USDA Forest Service. 2013. Bledsoe Coal Lease Consideration of Comments Received during the legal 30-day Notice & Comment Period. 13pp.



## **Public Involvement (36 CFR 220.7(c) (3))**

The project proposal was first listed in the quarterly Daniel Boone National Forest Schedule of Proposed Actions since July 2008. Public scoping was conducted between January 27 and February 24, 2012. The Bledsoe Coal Lease Scoping Report (scoping report) was mailed to the Redbird Ranger District mailing list on January 27, 2012. The scoping report was also posted on the Daniel Boone National Forest website in January 2012. Two comment letters were received from the public with concerns for the Bledsoe Coal Lease proposed action. Please see Appendix B of the Bledsoe Coal Lease environmental assessment for a summary of scoping respondents and Scoping issues analysis.

The January 2012 scoping letter and the October 2012 30-day notice and comment opportunity was sent to six federally recognized tribes that coordinate with the Daniel Boone National Forest on all projects. The United Keetoowah Band of Cherokee Indians in Oklahoma, Tribal Historic Preservation office responded with the request to send all related archaeological, cultural resource, and historical investigatory materials relating to the project to the Tribal Historical Preservation Officer for review and comment. The United Keetoowah Band of Cherokee Indians in Oklahoma Tribal Historical Preservation Office responded during the 30-day comment period (see Appendix I of the Bledsoe Coal Lease environmental assessment for a list of commenters and the Forest Service consideration of the comments).

The archaeological survey report was submitted to the Kentucky State Historic Preservation Officer for consultation under the Section 106 review process. The Kentucky State Historic Preservation Officer concurred with the findings and recommendations contained in the report. The concurrence letter is located in the project file. The archaeological survey report was forwarded to the Tribal Historical Preservation Officers upon acceptance of the report by the Kentucky State Historic Preservation Officer.

A biological assessment and evaluation was sent to the U.S. Fish and Wildlife Service for review and concurrence was received on August 16, 2012. The concurrence letter is located in the project file.

A Legal Notice was published in the Lexington Herald-Leader newspaper in Lexington, KY (newspaper of record) on October 24, 2012, consistent with 36 CFR 215.5. The EA was also posted to the Daniel Boone National Forest website, and the announcement of the 30-day notice and comment period. Comments were received from two parties. A list of individual commentors and the consideration of the comments received is located in the project record.

## **Finding of No Significant Impact for the Bledsoe Coal Lease KYES-53865**

Based upon my review of the analysis of the proposed activities described in the Bledsoe Coal Lease KYES-53865 Environmental Assessment <sup>2</sup>, I find that the Alternative 1 (EA pages 8 to 14) will not have a significant effect on the quality of the human environment based on the context and intensity of its impacts (40 CFR 1508.27). Therefore, an environmental impact statement will not be required.

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<sup>2</sup> USDI Bureau of Land Management & USDA Forest Service. 2012. Environmental Assessment Bledsoe Coal Lease KYES-53865. October 12. Prepared by Golder Associates Inc. 277 pp.



**I base my finding on the following:**

My decision to consent to lease coal from beneath National Forest System lands results in minimal impacts to surface resources that are managed by the Forest Service. Management direction remains unchanged as a result of consenting to lease. All surface ground-disturbing activities occur on private lands at portal sites that existed prior to this action. Subsidence could impact surface resources, but the analysis in the environmental assessment describes the potential for subsidence as negligible. Each resource area defined the scope of analysis and cumulative effects boundaries to determine the context in which environmental effects occur. Design criteria, which include the use of best management practices, identified for this action, result in impacts that I feel provide reasonable protection to other resources (EA: pages 21 to 117).

The *Land and Resource Management Plan for the Daniel Boone National Forest* (Forest Plan<sup>3</sup>) has direction specific to defined Management Areas and Prescription Areas. The analyses of effects summarized in the environmental assessment (EA pages 21 to 117) describe effects that are both beneficial and adverse. Although some effects will occur as a result of consenting to lease, there will be no significant impacts to wildlife habitat; soil productivity; Protected, Endangered, Threatened or Sensitive species (plant or animal); cultural resources; or water quality beyond those previously disclosed in the final environmental impact statement (FEIS) for the Forest Plan<sup>4</sup>.

**A - Context**

The context of the Bledsoe Coal Lease is limited to the local area encompassed by the proposed lease tract and impacts to resources as bounded in the environmental assessment, which include lands in close proximity to the tract (Figure 1). No unique geographic characteristics were identified within the project area that indicate an increased potential for significant effects. Alternative 1 of the Bledsoe Coal Lease was proposed in response to an application to lease federal coal, and to work towards meeting the National Minerals Policy to facilitate, develop and produce minerals on lands open to such activities.

**B - Intensity Factors****B.1 - Impacts That May Be both Beneficial and Adverse**

Under Alternative 1, potential adverse impacts will be negligible by implementing the project, including all design criteria and best management practices described as part of the proposal (EA pages 11 to 14). Beneficial effects will include local employment, indirect economic benefits, and provide royalty income on the federal coal reserves, state coal severance tax revenue and business revenue. Beneficial effects have not been used to offset or compensate for potential adverse effects. Some short-term impacts will affect some resources, including topography, groundwater quality, greenhouse gas emissions, plant and animal species. However, Forest Plan Standards and project-specific resource protection measures have been designed to protect and improve resource conditions (EA pages 11 to 14). Potential adverse effects of this project are expected to be within thresholds that historically have not resulted in impacts that would be considered significant, even when considered separately from the beneficial effects that occur in conjunction with adverse effects.

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<sup>3</sup> USDA Forest Service. 2004a. *Land and Resource Management Plan for the Daniel Boone National Forest*. Southern Region. Daniel Boone National Forest. Winchester, KY. Bulletin R8-MB-117A. 286 pp.

<sup>4</sup> USDA Forest Service. 2004b. *Final Environmental Impact Statement for the Daniel Boone National Forest*. Land and Resource Management Plan. Southern Region, Daniel Boone National Forest. Winchester, KY. Bulletin R8-MB 117B. 522 pp.



Based on experience planning and implementing similar projects, the interdisciplinary team has included resource protection measures (EA pages 11 to 14). Figure 2 displays the indicators used to compare the resource effects of implementing the proposed action.

**Figure 2 Indicators of resource effects for Alternative 1**

Effects Indicator	Environmental Effects from Implementing Alternative 1
<b>Geology:</b> Acid Mine Drainage	Acid mine drainage is unlikely due to the high net neutralization potential of the overlying rock that would cave into the mined areas and relatively low pyrite content of the Hazard #4.
<b>Air Quality:</b> Air Quality Standards (including Greenhouse Gas Emissions)	No long-term adverse impacts to air quality standards are expected because there will be no increase in emissions on an annual basis. The estimated direct annual Greenhouse Gas emissions (approximately 272.15 metric tons/year) are well below the 25,000 metric tons/year threshold for major sources as suggested by the Council on Environmental Quality for analysis in NEPA documents.
<b>Topography:</b> Subsidence related Visible changes in slope.	Maximum predicted vertical subsidence was estimated at 2.85 feet, which would not be visually observable in relation to the existing topography.
<b>Soils:</b> Soil Productivity	No adverse effects to soil productivity because there are no surface facilities supporting the mining operation on the tract. Predicted subsidence is below the thresholds that are protective of surface resources.
<b>Hydrology:</b> Stream Sediment Increase in Watersheds or changes in streamflow	There will be no direct surface disturbance and no predicted hydraulic connection between the expected mining and the stream/alluvial groundwater system associated with Cawood Branch or Beech Fork.
<b>Vegetation:</b> Permanent loss of forest vegetation (terrestrial habitat) that would result in deviation from standards specified in the forest plan or inadequate habitat to support Management Indicator Species	There will be no direct surface disturbance, so there will be no loss of forest vegetation. Indirect loss of forest vegetation from subsidence would be limited to individual trees with no net loss of forest vegetation.
<b>Vegetation:</b> Permanent loss of jurisdictional wetlands or riparian communities	There will be no direct surface disturbance, so there will be no loss of wetlands or riparian communities. Predicted subsidence is below the thresholds that are protective of wetlands and streams.
<b>Wildlife/Aquatics:</b> Permanent loss of aquatic habitat (due to reduction in flow or water quality) that would result in a reduction of aquatic macro invertebrate assemblages to a level that does not support MIS on the DBNF	There will be no hydraulic connection between the proposed workings and the valley floor stress relief fracture zone associated with surface streams. No increase in sediment is expected, because there is no direct surface disturbance or indirect loss of vegetation communities. No acid mine drainage is predicted.
<b>Proposed. Endangered. Or Threatened Species:</b> Taking of any threatened or endangered species without a permit, through habitat loss or otherwise or loss of aquatic habitat that would result in a determination of "likely to adversely affect" for a Threatened, Endangered or Proposed Species under the Endangered Species Act (ESA)	Minor effects to individuals of the endangered Indiana bat could occur due to loss of individual roosting trees. Potential, but unlikely, effects to the endangered snuffbox could occur, if individual exist downgradient. However, the effects would be considered "not likely to adversely affect" either species.
<b>Sensitive Species:</b> loss of that would result in a	No terrestrial sensitive species have been identified in the project area. For species with potential habitat in streams, lower mesic slopes or riparian corridors, no



Effects Indicator	Environmental Effects from Implementing Alternative 1
determination of "likely to adversely affect" for a Threatened, Endangered or Proposed Species under the ESA or a determination of "likely to result in a trend to federal listing or a loss of viability" for any species listed on the Regional Forester's Sensitive Species list	impacts are expected, due to lack of direct surface disturbance, or indirect changes to water quality or quantity.
<b>Cultural:</b> Loss of archeological sites eligible for or listed in the National Register of Historic Places	There are no archeological sites eligible for or listed in the National Register of Historic Places within the lease tract.

For specific details by resource, see EA pages 21 to 117.

## B.2 - The Degree to Which the Proposed Action Affects Public Health or Safety

Public health and safety will be protected. No new surface disturbance will occur and none will occur on National Forest System lands. Potential risks of direct impact to public health and safety would only be associated with subsidence and would occur over limited, brief periods. For specific details by resource, see EA pages 72 to 79, 103 to 110, and 114 to 115.

## B.3 - Unique Characteristics of the Geographic Area Such As Proximity to Historic or Cultural Resources, Parklands, Prime Farmlands, Wetlands, Wild and Scenic Rivers, or Ecologically Critical Areas

There are no unique characteristics within the project area. For specific details by resource, see EA Appendix A (Unsuitability Criteria analysis) and EA pages 112 to 114.

## B.4 - Degree to Which the Effects on the Quality of the Human Environment Are Likely To Be Highly Controversial

As with any decision to act on National Forest System lands, some degree of disagreement exists. Comments on this action disputed the appropriateness of use of public natural resources for mining. This decision to lease coal reserves and its effects are not unique. Coal leasing decisions have previously been made in this area by this Bureau of Land Management (BLM) field office, and consent to lease decisions by the Forest Service have also occurred. There is no scientific controversy over the nature of the impacts. There is some uncertainty about the long-term cumulative effects of greenhouse gasses and how these effects can be managed. However, such impacts cannot be quantified or predicted at this time. The potential intensity of effects on the quality of the human environment is minimal. The effects from this project on the quality of the human environment are expected to be minor and short in duration. (EA pages 21 to 117).

## B.5 - Degree to Which the Possible Effects on the Human Environment Are Highly Uncertain or Involve Unique or Unknown Risks

The project is not unique or unusual in this area. Coal mining has been ongoing in the area for over 50 years and the Forest Service has been making decisions on similar actions for many years. The Forest Service has experience implementing similar actions in this and similar areas. There are no predicted potential effects to the human environment that are considered to be highly uncertain or to involve unique or unknown risks under Alternative 1 (EA pages 21 to 117).

**B.6 - Degree to Which the Action May Establish a Precedent for Future Actions with Significant Effects or Represents a Decision in Principle about a Future Consideration**

This decision is not precedent setting. Alternative 1 was considered in the context of past, present and reasonably foreseeable actions. This decision is not unusual and significant cumulative effects are not predicted. The decision does not represent a decision in principle about a future consideration. Activities proposed in this project are site-specific to this project (EA pages 1, 8 to 20). The action alternative for this proposal, Implementing Alternative 1 does not result in changes to management direction for surface resources.

**B.7 - Whether the Action is Related to Other Actions with Individually Insignificant but Cumulatively Significant Impacts**

Alternative 1 is designed so that site-specific adverse cumulative effects to resources would be unlikely. There will be no new surface disturbance and limited surface effects due to subsidence. Alternative 1 adequately protects the watershed, plants, wildlife, aquatic species, and other sensitive resources within and adjacent to the project area.

The cumulative effects from past, present, and reasonably foreseeable future actions were considered in the environmental assessment (EA pages 27 to 114); they are incorporated by reference. Based on the small footprint, limited surface disturbance and the way in which the project is designed, resources in the analysis area are expected to receive adequate protection in the short and long term. Resource protection measures, best management practices, and other project-specific design elements of the proposed action are listed in the EA (Table 2.2-2 and EA pages 8 to 14).

For specific details by resource, see EA pages 17 to 121.

**B.8 - Degree to Which the Action May Adversely Affect Districts, Sites, Highways, Structures, or Objects Listed in or Eligible for Listing in the National Register of Historic Places or May Cause Loss or Destruction of Significant Scientific, Cultural, or Historical Resources**

There are no archeological sites eligible for or listed in the National Register of Historic Places with the lease tract that would be impacted (EA pages 112 to 114 and 119 to 120).

**B.9 - Degree to Which the Action May Adversely Affect an Endangered or Threatened Species or its Habitat that has been Determined to be Critical under the Endangered Species Act of 1973**

There will be no adverse effects to an endangered or threatened species or its habitat determined to be critical under the Endangered Species Act (EA pages 93 to 101 and 119).

**B.10 - Whether the Action Threatens a Violation of Federal, State, or Local Law or Other Requirements Imposed for Protection of the Environment**

The activities proposed in this project do not violate Federal, State, or local laws (EA pages 3 to 4 and 119 to 120).

**Incorporated by reference (36 CFR 220.7(c) (4))**

My decision incorporates by reference the following documents:

- USDA Forest Service. 2012. Bledsoe Coal Lease Environmental Assessment. 277 pp.



- USDA Forest Service. 2004a. Land and Resource Management Plan for the Daniel Boone National Forest. Southern Region, Daniel Boone National Forest. Winchester, KY. Bulletin R8-MB 117A. 286 pp.
- USDA Forest Service. 2004b. Final Environmental Impact Statement for the Daniel Boone National Forest, Land and Resource Management Plan for the Daniel Boone National Forest. Southern Region, Daniel Boone National Forest. Winchester, KY. Bulletin R8-MB 117B. 522 pp.
- Golder Associates Inc. 2012. Bledsoe Coal Lease Biological Assessment and Evaluation. July 9, 2012. Prepared for: Redbird Ranger District, USFS. Big Creek, Kentucky.
- USDI Bureau of Land Management and USDA Forest Service. 2013. Bledsoe Coal Lease Consideration of Comments Received during the legal 30-day Notice & Comment Period. 13pp.

## **Findings required by other laws and regulations applicable to the decision (36 CFR 220.7(c) (5))**

### **Forest Plan Consistency (National Forest Management Act)**

Alternative 1, leasing of federal coal on the Daniel Boone National Forest, is consistent with the following goals found in the 2004 *Land and Resource Management Plan for the Daniel Boone National Forest* (Forest Plan):

- Goal 9 – Provide mineral commodities for current and future generations commensurate with the need to sustain the long-term health and biological diversity of ecosystems (Forest Plan, page 2-15).
- Goal 9.1 – Facilitate federal mineral development in a timely manner while protecting other resources (Forest Plan, page 2-15).

Forestwide standards found on pages 2-20 to 2-21 of the Forest Plan (2004a) outline standards that preclude or impose limitations on minerals management. The proposed action is consistent with these standards (EA pages 4 to 5).

Alternative 1 is also consistent with the goals, objectives and standards for Prescription Area 1.C (Cliffline Communities), 1.E (Riparian Prescription Areas), 1.K (Habitat Diversity Emphasis) and 3.A (Developed Recreation Areas). No standards within these prescription areas preclude this type of project, and the absence of surface disturbance meets the standards that apply to mineral development activities.

A coal lease sale may not be held unless the lands have been included in a comprehensive land use plan or Land Use Analysis (LUA), and unless the sale is compatible with, and subject to, any stipulations resulting from the plan or LUA in association with the environmental analysis.

### **Surface Mining Control and Reclamation Act of 1977 (SMCRA)**

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) requires States and Federal agencies to designate the lands that are unsuitable for surface coal mining. Section 522(e) 2 states that subject to valid existing rights, no surface coal mining operations shall be permitted on any Federal lands within the boundaries of any National Forest unless they are permitted based upon the findings of a compatibility determination, as defined in the act. A Coal Unsuitability analysis and Report was completed (EA Appendix A). Each of the 20 unsuitability criteria was considered and the tract was determined to be suitable for coal mining based on the analysis of the 20 criteria.

## Mining and Minerals Policy Act of 1970

The proposed action will foster and encourage the development of economically sound and stable industries, and the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs. This alternative will provide for the extraction of coal from beneath the Forest Service tract in a way that will adequately protect non-mineral resources. While protecting non-mineral resources, it will also allow for utilization of a needed resource, produce severance tax income for the local economy and assist in maintaining employment opportunities in the area.

## Endangered Species Act

The Endangered Species Act (ESA) requires an analysis that considers a project's potential impacts to proposed, threatened and endangered species as well as proposed and designated critical habitat. A Biological Assessment and Evaluation (BAE) has been completed for this project, and the results are identified in the EA on pages 97 to 101.

### *Endangered Species Act Determinations*

The biologist found that there is "No Effect" determination in regards to critical habitat, as the project is not located in the watersheds identified for critical habitat. Consultation with the U.S. Fish and Wildlife Service resulted in their concurrence with the findings in the BAE, relative to federally listed or proposed species and critical habitat. The BAE, the concurrence letter and a supplement to the BAE are included in the project record.

The biologist found in the case of the Endangered Indiana Bat (*Myotis sodalis*) a "Not likely to adversely affect" determination, due to the lack of surface disturbance or vegetation manipulation. There is no known winter habitat for the Indiana Bat within or adjacent to the project area.

The biologist found in the case of the Endangered Snuffbox (*Epioblasma triquetra*) a "Not likely to adversely affect" determination, due to the lack of surface disturbance or vegetation manipulation and no measureable effects to surface water. There is no habitat for the snuffbox in the project area, and historically, snuffbox have not been found in this area

## Sensitive Species (Forest Service Manual 2670)

This Manual direction requires analysis of potential impacts to sensitive species, those species for which the Regional Forester has identified population viability concern. Potential effects of this action on sensitive species have been analyzed and documented in the BAE.

The BAE lists the effects to Forest Service Sensitive Species and /or their habitats. Four sensitive species were evaluated in greater detail in the BAE as individuals or habitat has been identified within or adjacent to the project area. The analysis resulted in a finding of "No impacts" to the butternut (*Juglans cinera*), eastern sand darter (*Ammocrypta pellucida*), Diana fritillary (*Speyeria Diana*), Rafinesque's big-eared bat (*Corynorhinus rafinesquii*), and eastern small-footed bat (*Myotis leibii*). No direct surface disturbance, minimal loss of vegetation, no loss of summer habitat, and possible, but insignificant changes in hydrology, are predicted on the National Forest lands.

## Clean Water Act

No measureable impacts to surface water or groundwater are predicted under Alternative 1, which complies with Kentucky water quality regulations (401 KAR) and the Clean Water Act.



## Clean Air Act

There would be no increase in air emissions as a result of implementing Alternative 1, which complies with the Clean Air Act.

## National Historic Preservation Act; Archaeological Resources Protection Act; Native American Graves Protection and Repatriation Act; American Indian Treaty Rights

The Forest Service submitted the Cultural Resource Survey<sup>5</sup> to the Kentucky Heritage Council State Historic Preservation Office (SHPO), requesting concurrence that the project would have no effect on Historic Properties under 36 CFR 800. Consultation with the SHPO resulted in their concurrence with the finding of no effect on historic properties in the Cultural Resource Survey. The SHPO considered the undertaking's potential to affect archaeological as well as architectural resources that may be eligible for listing on the National Register.

## Environmental Justice (Executive Order 12898)

This Order requires consideration of whether projects would disproportionately impact minority or low-income populations. Alternative 1 complies with this Act. Public involvement did not identify any adversely impacted local minority or low-income populations. This decision is not expected to adversely impact minority or low-income populations. This site was selected because the coal is present here and not due to its remote location.

## Invasive Species (Executive Order 13112)

This order requires consideration of invasive species in actions taken by Federal agencies. To the extent practicable and lawful, agency actions should prevent the introduction of invasive species and provide for their control. Non-native invasive species, herbaceous or woody, typically establish and colonize a site with exposed soil. Alternative 1 does not include any new surface disturbance on National Forest System or private lands, and there will be no surface occupations of public lands associated with this project. The potential for non-native invasive species establishment due to agency actions is negligible.

## National Environmental Policy Act

This Act requires opportunity for public involvement and consideration and disclosure of potential environmental effects. The entirety of documentation for this decision supports compliance with this Act.

## Expected Implementation Date (36 CFR 215.9)

Regarding the Forest Service decision to consent to lease federal coal, if no appeal is filed within the 45-day time period, implementation of this decision may occur on, but not before, the 5th business day following the close of the appeal filing period. If an appeal is filed, implementation may occur on, but not before, the 15th business day following the date of appeal disposition.

## Administrative Review or Appeal Opportunities (36 CFR 215.11)

This decision is subject to appeal pursuant to 36 CFR 215.11. A written appeal, including attachments, must be postmarked or received within 45 days after the date this notice is published in Lexington

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<sup>5</sup> Cultural Resource Analysts, Inc. (CRA). 2012. Cultural Resource Survey of a Coal Lease Parcel within the Daniel Boone National Forest, Redbird Ranger District, Leslie County Kentucky. June 2012.

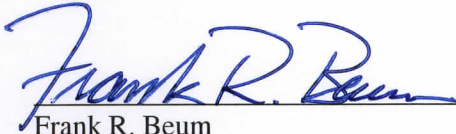
Herald-Leader Newspaper. This newspaper is published daily. Appeals must meet content requirements of 36 CFR 215.14. Send the Notice of Appeal to:

Elizabeth Agpaoa, Appeal Deciding Officer  
Attn: Appeals  
USDA-Forest Service, Southern Region  
1720 Peachtree Road, N.W., Suite 811N  
Atlanta, GA 30309

Appeals may be faxed to (404) 347-5401. Hand-delivered appeals must be received at the Forest Service office at the above address in Atlanta, Georgia within normal business hours of 8:00 a.m. to 4:30 p.m. Appeals may also be mailed electronically in a common digital format to: *appeals-southern-regional-office@fs.fed.us*.

## Contact Information (36 CFR 220.7(c) (8))

For further information on this decision, contact Forest Geologist Patti Davis at 1700 Bypass Road, Winchester, KY 40391 or by calling (859) 745-3100.



Frank R. Beum  
Forest Supervisor  
Daniel Boone National Forest

May 9, 2013  
Date